



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Secretary Of State TITLE-SERIES: 153-25  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 153-25 Combined Voter Registration and Driver Licensing Fund

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: 3-1A-6 and 3-2-12(b)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The Secretary of State has statutory authority to promulgate rules to provide for the administration of the fund established for the Combined Voter Registration and Driver Licensing Fund for use, in part, to purchase uniform voter registration software, reimburse county commissions for specific voter registration purposes, and conduct general voter registration list maintenance.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/25/2021

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/27/2021

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Federal law citations were outdated. The Secretary of State subscribes to a national nonprofit organization for certain voter registration list maintenance services, including a list provided by the National Change of Address (NCOA) Service. The NCOA list is provided as part of the State's membership in the nonprofit organization, and as such the Rule is amended to remove the requirement for counties to pay for their portion of the NCOA list.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The Secretary of State pays for its membership in the nonprofit organization. Since joining in 2016, the Secretary of State has not charged or requested counties for reimbursement of the NCOA list despite the Rule's previous requirements.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Donald Kersey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



TITLE 153  
LEGISLATIVE RULE  
SECRETARY OF STATE

SERIES 25  
COMBINED VOTER REGISTRATION AND DRIVER LICENSING FUND

**§153-25-1. General.**

1.1. Scope. -- To establish guidelines for the administration of the Combined Voter Registration and Driver Licensing Fund established by ~~S. B. 443 (1991) and revised by S. B. 520 (1994)~~ W. Va. Code § 3-2-12.

1.2. Authority. -- W. Va. Code §§3-1A-6 and 3-2-12.

1.3. Filing Date. -- ~~June 28, 2011.~~

1.4. Effective Date. -- ~~June 28, 2011.~~

1.5. Sunset Provision. -- This Rule shall terminate and have no further force or effect on [DATE].

**§153-25-2. Definitions.**

For the purposes of this rule:

2.1. "Agency registration form" means any form designed for use in conjunction with direct voter registration of applicants at any designated agency.

2.2. "Applicant" means:

2.2.1. a person who submits an application for the issuance, renewal or change of address of any motor vehicle driver's license or official identification card, as provided by W. Va. Code §3-2-11(a); or

2.2.2. a person who applies in person at a designated agency, whether at an agency office or other site of direct contact with an agency employee responsible for accepting applications, seeking services or assistance for himself or herself or for a member of his or her immediate family, as defined by W. Va. Code §3-2-14(a), and who submits an application, renewal, recertification or change of address relating to those services or assistance.

2.3. "Combined form" means any form which includes a voter registration application or declination form as part of a form used in the driver licensing or agency application process.

2.4. "Designated agency" means an agency, department, division or office of state or local government, or a program supported by state funds, which is designated to provide voter registration services by the provisions of W. Va. Code §3-2-13 or by rules promulgated under that section.

2.5. "Driver licensing facility" means a location at which motor vehicle driver licenses are issued or at which applications for such licenses are received.

2.6. "The Fund" means the Combined Voter Registration and Driver Licensing Fund.

2.7. "Licensing registration form" means any form designed for use in conjunction with direct voter registration of applicants at any driver licensing facility.

2.8. "Mail registration form" means a form to be used by an individual for application for voter registration according to the procedures and requirements of W. Va. Code §3-2-10.

2.9. "NCOA" means the "National Change of Address" program by which state or local election offices may contract with authorized vendors for comparison of the addresses of registered voters with change of address records filed with the U. S. Postal Service.

2.10. "Registration official" means the Secretary of State or clerk of the county commission responsible for particular functions related to voter registration.

2.11. "Registration site" means a driver licensing facility, or an office or program location of a designated agency where registration services are delivered to clients and the completed registration or declination cards are received for forwarding.

#### **§153-25-3. Revenue.**

3.1. The Combined Voter Registration and Driver Licensing Fund established by W. Va. Code §3-2-12 as a special revenue fund shall be administered by the Secretary of State.

3.2. The Division of Motor Vehicles shall deposit fifty cents of each fee collected under the provisions of W. Va. Code §17-3-1 into the special revenue fund.

#### **§153-25-4. Expenditures.**

4.1. The full cost of the following items may be paid by the Secretary of State from the Fund as needed for implementation of voter registration at driver licensing facilities and designated agencies:

4.1.1. the printing and distribution of separate licensing and agency voter registration forms and for the proportional cost of the voter registration portion of any combined form;

4.1.2. the printing and distribution of mail registration forms to the public or to driver licensing facilities and designated agencies for distribution to individuals upon request according to procedures prescribed by the Secretary of State;

4.1.3. the supplies and postage for correspondence relating to voter registration for licensing and agency registration sites;

4.1.4. the printing and distribution of the necessary envelopes for transmitting completed voter registration applications or other forms, and for postal permits and postage for returning completed voter registration forms to the appropriate registration official;

4.1.5. the purchase and distribution of public information materials, posters, training material, employee manuals, and other information essential to insure broad understanding of the availability of

registration opportunities and the proper implementation of the program; and

4.1.6. the printing and distribution of supplies and equipment required by driver licensing facilities and designated agencies to collect, stamp and retain securely the registration forms until forwarded to the appropriate registration official.

4.2. The Secretary of State shall reimburse the appropriate county at a rate of \$.50 for each completed registration application received at a registration site and forwarded to the appropriate registration official, for the purpose of offsetting a portion of the postage and mailing costs incurred by the county for sending a verification mailing, receipt or confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a licensing facility or designated agency.

4.2.1. The Secretary of State shall make the reimbursement under this subsection for each completed registration application received at a registration site and forwarded to a county by the Secretary of State, and for any registration applications delivered directly to a clerk of the county commission from a designated agency or driver licensing facility for which a receipt containing the number of applications is signed by the clerk or his or her designee and forwarded to the Secretary of State.

4.2.2. The Secretary of State shall make the reimbursement under this subsection on an annual basis.

4.3. The Secretary of State shall reimburse the Division of Motor Vehicles, the Division of Public Safety, and the designated agencies at a rate of one dollar (\$1.00) per completed registration application for the appropriate allocation of cost for personnel time apportioned to and incurred for delivery of voter registration services, collection and transmission of the completed forms: Provided, That the total reimbursement shall not exceed sixty (60) percent of the total annual revenue of the Fund. In any year in which the revenue is insufficient to pay the reimbursement rate of \$1.00 per completed registration as provided in this subsection, the amount per registration application shall be reduced proportionally.

4.3.1. The Secretary of State shall compute the total reimbursement for the Division of Motor Vehicles, the Division of Public Safety and the designated agencies based on the number of complete registration application forms or change of address forms which are completed and forwarded to the Secretary of State from the registration sites, plus the number of applications for registration or change of registration which are documented as having been delivered directly from the registration sites to the county clerk as provided in subdivision 4.2.1 of this rule.

4.3.2. Within 30 days following the beginning of each fiscal year, each Division or designated agency shall provide to the Secretary of State a listing of the appropriate account number(s) into which the reimbursements shall be deposited, and if the funds are to be allocated to more than one account, the proportion of funds assigned to each.

4.3.3. The Secretary of State shall make the reimbursements under this subsection on an annual basis.

4.3.4. Prior to receiving reimbursement, the Division of Motor Vehicles, the Department of Public Safety, and each designated agency shall report to the Secretary of State the total number of applicants for which they were required to provide voter registration opportunities during the quarter.

4.4. According to the provisions of W. Va. Code §3-2-25, the Secretary of State shall contract with an authorized vendor of the United States postal service for a comparison of the voter registration records of counties participating in the state uniform voter data system with postal service records through the "NCOA" program.

4.4.1. The Secretary of State shall pay for the NCOA service from the Fund, ~~but the Fund shall be responsible for not less than thirty nor more than fifty percent of the total cost of conducting the comparison, and each county participating in the joint program shall reimburse the Fund for the balance of the cost prorated on a per voter basis from revenues of the current fiscal year.~~

4.4.2. ~~The Secretary of State shall pay for the NCOA service from revenues of the current fiscal year. Upon the receipt of bids from the authorized vendors for the service, the Secretary of State shall determine the percentage of the costs which can be made from the Fund and shall notify all participating counties of the cost per voter for which they will be required to reimburse the Fund.~~

4.5. The Secretary of State may pay or reimburse other costs associated with implementation of the requirements of the "National Voter Registration Act of 1993" (42 U.S.C. 1973 ~~gg~~ 52 USC 20501 *et seq.*) from the Fund: Provided, That revenue received by the Fund during any fiscal year shall first be allocated to the purposes set forth in section 4.1, 4.2, 4.3 and 4.5 of this rule.

4.6. Any balance in the Fund which exceeds \$100,000 on June 30 of each year shall be transferred to the General Revenue Fund pursuant to W. Va. Code § 3-2-12(c).